

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

N. Allen & Dixie M. Norton,
Petitioners-Appellants.

v.

Warren County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-91-0216
Parcel No. 05-325-00-1295,

On December 2, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellants, N. Allen and Dixie M. Norton, were self-represented. County Attorney John Criswell is counsel for the Board of Review and Assessor Brian Arnold represented it at hearing. The Appeal Board now having examined the entire record, having heard the testimony, and being fully advised, finds:

Findings of Fact

N. Allen and Dixie M. Norton, owners of property located at 665 Greenfield Parkway, Des Moines, Iowa, appeal from the Warren County Board of Review decision reassessing their property. The real estate was classified residential for the January 1, 2011, assessment and valued at \$102,600; representing \$15,800 in land value and \$86,800 in dwelling value.

The Nortons protested to the Board of Review on the grounds that the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a); and that the property was assessed for more than authorized by law under section 441.37(1)(b). In response to the protest, the Board of Review notified the Nortons the January 1, 2011, assessment would not change.

The Nortons then appealed to this Board again asserting the same grounds. They value the property at \$96,600, allocated as \$15,800 to the land and \$80,800 to the dwelling.

The subject property consists of a one-story, frame dwelling having 960 square feet of total living area, a full unfinished basement, a 112 square-foot open porch, and a 192 square-foot screened porch built in 1966. The property also has a 480 square-foot, attached garage. The property has an average quality grade (4+00) and is in below normal condition. The site is 0.230 acres.

Allen Norton testified that he protested his 2009 assessment to the Board of Review and subsequently appealed to this Board. At that time, the Board of Review submitted a written statement from Assessor Brian Arnold indicating the property's assessment should be reduced \$9500. We modified the 2009 assessment and valued the property at \$98,600.¹ This value also carried over to the 2010 assessment.

Norton testified that after he received his January 1, 2011, assessment, he called Arnold in early April and asked him why his property's value had increased when the value of several properties in the area had decreased \$5100 or more. He stated Arnold said it was because of "improvements" he made to the property: the improvements were that the Nortons had partially repaired two of the cracked, caving basement walls. Arnold, who testified on behalf of the Board of Review, confirmed the reason for the increase in value was due to the repair made to the basement. Because the repairs were made to the basement wall, Arnold removed the 10% obsolescence that he believed had been attributed to this condition because of PAAB's order on the 2009 assessment.

Norton believes his property should be considered in poor condition, not in below normal condition. He testified the only repair he made was the installation of wall anchors to stabilize two walls in the basement. He also questions whether this adds to the value of his property, especially

¹ According to our order in Norton's 2009 appeal, Docket No. 09-91-0744, the reduction was as the result of some minor adjustments in the listing, as well as from applying 10% obsolescence to reflect the property's deferred maintenance and foundation problems as of the January 1, 2009, assessment date.

considering the other walls still have problems and cracks that were repaired broke open again. At our request, Norton submitted the costs for the wall anchors. The invoice from July 2010 shows a total cost of \$7529.20.

The Nortons' letter to the Board of Review also referenced Iowa Code section 441.21(8)(a).

This section is related to repairs to property. Section 441.21(8)(a) states:

Any normal and necessary repairs to a building, not amounting to structural replacements or modification, shall not increase the taxable value of a building. This paragraph applies only to repairs of two thousand five hundred dollars or less per building per year.

Norton apparently believes this was a repair and should not increase his taxable value. In this case, whether the Nortons' basement wall repairs were necessary repairs or structural replacement/modification, its cost exceeded \$2500. Therefore, the taxable value of the property could have been increased as result of the change. This, however, does not mean that the cost of the repair is the value added to the property's assessment. Arnold appeared to agree when questioned at hearing, that the cost does not necessarily equate to market value. Additionally, by removing the entire 10% obsolescence which was actually attributed to all basement problems and deferred maintenance, the assessment no longer accounts for the fact that the repairs only partially addressed the basement issues.

Norton also provided properties he considered comparable to his for equity purposes (Exhibits 24-29). He had previously submitted five of these properties to the Board of Review. As previously noted, he believes his property is in poor condition compared to these properties, and like these properties, he also deserves a decrease in the assessment. The properties are all in the same area as his property and reflect a decrease in assessed values between their 2010 and 2011 assessments.

Testimony indicated the properties received, on average, a 5% reduction in their assessments. Arnold stated the range was likely between 3-6% depending on the effect of the land to building ratio. He also stated the decrease only applied to the dwelling value. The properties are all one-story, frame ranches, are situated on similarly sized sites and, except the property located at 8216 Ridgeview Drive, were

After reviewing all the evidence, we find the preponderance of the evidence supports a finding that the property is over assessed. We find that by removing the entire percentage of obsolescence previously entered by an order of this Board, which had been applied to the dwelling for its basement issues, results in an error because it fails to account for the fact that the basement is still not completely fixed. Testimony indicates, and the Nortons' photo exhibits demonstrate, parts of the foundation remain in disrepair. Further, since the cost of repairs does not necessarily equate to market value, the removal of the entire 10% of obsolescence increased the assessment above even the cost of the repairs with little market evidence to support such a change. We, therefore, modify the assessment to reflect only a partial change in the obsolescence attributed to this feature. We find only 5% of the obsolescence should have been removed in addition to the dwelling receiving the approximately 5% reduction because of the map factor. Correcting this issue, the correct assessment of the property is \$99,100² for the January 1, 2011, assessment date.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

² We calculate this value by taking the original 2009 assessment allocated to the buildings and subtracting 10% of that figure (\$9230); this results in a building assessment of \$83,070. We then add back half of this value (\$4615) to reflect that only 5% of the obsolescence should have been applied back to the assessment. This results in a building assessment of \$87,685. We then removed 5% from this value to reflect the economic reduction that other properties in the neighborhood received, as did Norton, for the 2011 assessment. This results in a building value of \$83,300. The land value of \$15,800 is then added to the building value to arrive at a total assessment of \$99,100.

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The Nortons did not provide sufficient evidence to show the property was inequitably assessed.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The evidence shows the property still has issues with its basement foundation walls. By error or inadvertence, removing the entire 10% obsolescence previously applied to the property for its foundation issues over valued the property. We find at most only half (5%) of the previously applied

obsolescence should have been removed. Therefore, this Board modifies the value set by the Board of Review to correct the over assessment.

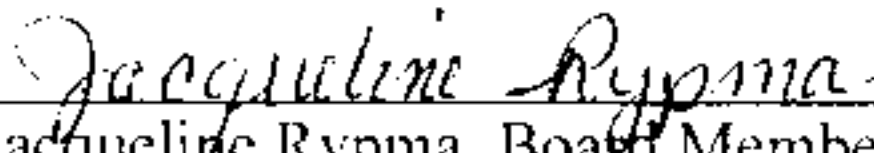
Viewing the evidence as a whole, we determine the preponderance of the evidence supports the Nortons' claim of over-assessment as of January 1, 2011. We, therefore, modify Nortons' property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2011, is \$99,100.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment of the Nortons' property located in Des Moines, Iowa, as determined by the Warren County Board of Review is modified as set forth herein.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Warren County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 16 day of March, 2012.


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

Copies to:

N. Allen & Dixie M.
665 Greenfield Parkway
Des Moines, IA 50320-6825
APPELLANTS

John Criswell
301 N Buxton, Ste. 302
Indianola, IA 50125

Brian Arnold, County Assessor
301 N Buxton, Ste. 108
Indianola, IA 50125

Traci Vanderlinden
Warren County Auditor
301 North Buxton, Suite 101
Indianola, IA 50125

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-16</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
